upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

will not further prosecute the defendant upon the charge; and thereupon all proceedings on such charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding Judge otherwise directs.

Time of holding sittings.

334. For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

Place of holding sittings.

335. (*1*) The High Court shall hold its sittings at the place at which it now holds them, or at such other place (if any) as the [1][[2][State] Government], may direct.

(*2*) But it may, from time to time [3]* * * * with the consent of the [4][[2][State] Government], hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

Notice of sittings.

(*3*) Such officer as the Chief Justice directs shall give notice beforehand in the [5][Official Gazette], of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court.

336. [*Place of trial of European British subjects.*] *Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923), s. 20.*

CHAPTER XXIV.

General Provisions as to Inquiries and Trials.

Tender of pardon to accomplice.

337. [6][(*1*) In the case of any offence triable exclusively by the High Court or Court of Session, or any offence punishable with imprisonment [7][which may extend to seven years] or any offence under any of the following sections of the Indian Penal Code, namely, sections [8][161, 165, 165A,] 216A, 369, 401, 435 and 477A, the District Magistrate, a Presidency Magistrate, a Sub-divisional Magistate or any Magistrate of the first class may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof: XLV of 1860

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[1] Substituted by the A. O. 1937 for "G. G. in C. in the case of the High Court at Fort William, or the L. G. in the case of the other High Courts".

[2] Substituted by the A. O. 1950 for "Provincial".

[3] The words "in the case of the High Court at Fort William with the consent of the G. G. in C. and in all other cases" rep. by the A. O. 1937.

[4] Substituted by the A. O. 1937 for "L. G."

[5] Substituted, *ibid.*, for "local official Gazette".

[6] Sub-sections (*1*) and (*1A*) substituted for the original sub-section (*1*) by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 86.

[7] Substituted by Act 26 of 1955, s. 59 (*a*) (*i*), for the original portion.

[8] Inserted, *ibid.*, s. 59 (*a*) (*ii*).

Provided that, where the offence is under inquiry or trial no Magistrate of the first class other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the sanction of the District Magistrate has been obtained to the exercise thereof.

Provided that, where the offence is under inquiry or trial no Magistrate of the first class [1]* * * * shall exercise the power hereby conferred unless he is the Magistrate making the inquiry or holding the trial, and, where the offence is under investigation no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into or tried and the [2][*sanction of the Sessions Judge*] has been obtained to the exercise thereof.

(*1A*) Every Magistrate who tenders a pardon under sub-section (*1*) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record :

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.]

(*2*) Every person accepting a tender under this section shall be examined as a witness in [3][the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any.]

[4][(*2A*) In every case where a person has accepted a tender of pardon and has been examined under sub-section (*2*), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be.]

[5][(*2B*) In every case where the offence is punishable under section 161 or section 165 or section 165A of the Indian Penal Code (Act XLV of 1860) or sub-section (*2*) of section 5 of the Prevention of Corruption Act, 1947 (II of 1947), and where a person has accepted a tender of pardon and has been examined under sub-section (*2*), then, notwithstanding anything contained in sub-section (*2A*), the magistrate shall, without making any further inquiry send the case for trial to the court of the special judge appointed under the Criminal Law Amendment Act, 1952 (XLVI of 1952).]

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[1] The words "other than the District Magistrate" were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[2] Substituted, *ibid*, for "sanction of the District Magistrate".

[3] Substituted by Act 18 of 1923, s. 86, for "the case".

[4] Inserted by s. 86, *ibid*.

[5] Inserted by Act 26 of 1955 , s. 59 (*b*).

(*3*) Such person, [1][unless he is already on bail], shall be detained in custody until the termination of the trial [2]* * * * * * * *

[3]* * * * * * * * * * * * * *

Power to direct tender of pardon.

338. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

Commitment of person to whom pardon has been tendered.

339. (*1*) Where a pardon has been tendered under section 337 or section 338, and [4][the Public Prosecutor certifies that in his opinion] any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made [5][such person may be] tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter:

[4][Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made; in which case it shall be for the prosecution to prove that such conditions have not been complied with.]

(*2*) The statement made by a person who has accepted a tender of pardon may be given in evidence against him [6][at such trial].

(*3*) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court.

Procedure in trial of person under section 339.

[7][**339A.** (*1*) The Court trying under section 339 a person who has accepted a tender of pardon shall—

(*a*) if the Court is a High Court or Court of Session, before the charge is read out and explained to the accused under section 271, sub-section (*1*), and

(*b*) if the Court is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made.

(*2*) If the accused does so plead, the Court shall record the plea and proceed with the trial, and the jury, or the Court [8]* * * * or the Magistrate, as the case may be, shall, before judgment is passed in the case find whether or not the accused has complied with the conditions of the pardon, and if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal.]

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 86, for "if not on bail".

[2] The words " by the Court of Session or High Court, as the case may be " rep. by s. 86, *ibid.*

[3] Sub-section (*4*) rep. by s. 86, *ibid.*

[4] Inserted by s. 87, *ibid.*

[5] Substituted by s. 87, *ibid.*, for " he may be ".

[6] Substituted by s. 87, *ibid.*, " when the pardon has been forfeited under this section ".

[7] Inserted by s. 88, *ibid.*

[8] The words " with the aid of the assessors " were omitted by Act 26 of 1955, s. 58.

[1][**340.** (*1*) Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader. Right of person against whom proceedings are instituted to be defended and his competency to be a witness.

(*2*) Any person against whom proceedings are instituted in any such Court under section 107, or under Chapter X, Chapter XI, Chapter XII or Chapter XXXVI, or under section 552, may offer himself as a witness in such proceedings.]

341. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and, in the case of a Court other than a High Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit. Procedure where accused does not understand proceedings.

342. (*1*) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial without previously warning the accused put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence. Power to examine the accused.

(*2*) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them; but the Court and the jury (if any) may draw such in reference from such refusal or answers as it thinks just.

(*3*) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for any other offence which such answers may tend to show he has committed.

[2][(*4*) No oath shall be administered to the accused when he is examined under sub-section (*1*).]

[3][**342A.** Any person accused of an offence before a Crimimal Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial: Accused person to be competent witness.

Provided that—

(*a*) he shall not be called as a witness except on his own request in writing; or

(*b*) his failure to give evidence shall not be made the subject of any comment by any of the parties or the Court or give rise to any presumption against himself or any person charged together with him at the same trial.]

343. Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge. No influence to be used to induce disclosures.

344. [4][(*1A*)] If, from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, or such time as it considers reasonable, and may by a warrant remand the accused if in custody : Power to postpone or adjourn proceedings.

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 89, for the original s. 340.

[2] Substituted by Act 26 of 1955, s. 60, for the original sub-section.

[3] Inserted. *ibid*, s. 61.

[4] Sub-section (*1*) was renumbered as (*1A*), *ibid.*, s. 62 (*a*).

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

[1][Provided further when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing.]

[2][(*1*) In every inquiry or trial, the proceedings shall be held as expeditiously as possible and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.]

(*2*) Ever order made under this section by a Court other than a High Court shall be in writing signed by the presiding Judge or Magistrate.

Reasonable cause for Remand.

Explanation.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Compounding offences.

345. (*1*) The offences punishable under the sections of the Indian Penal Code [3][specified] in the first two columns of the table next following may be compounded by the persons mentioned in the third column of that table :— XLV of 1860

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Causing hurt	323, 334	The person to whom the hurt is caused.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Assault or use of criminal force ...	352, 355, 358	The person assaulted or to whom criminal force is used.
Unlawful compulsory labour ...	374	The person compelled to labour.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.
Criminal trespass	447	The person in possession of the property trespassed upon.
House trespass	448	
Criminal breach of contract of service ...	490, 491, 492	The person with whom the offender has contracted.
Adultery	497	The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498	
Defamation	500	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501	
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	502	

[1] Added by Act 26 of 1955, s. 62 (*b*).
[2] Inserted, *ibid.*, s. 62 (*a*).
[3] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90, for "described".

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation except when the offence is punishable with imprisonment for seven years.	506	The person intimidated.
[1][Act caused by making a person believe that he will be an object of divine displeasure.	508	The person against whom the offence was committed.]

[2][(2) The offences punishable under the sections of the Indian Penal Code specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that table :—

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
[3][Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt ...	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining for ten or more days.	344	Ditto.
Wrongfully confining a person in secret ...	346	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft, where the value of property stolen does not exceed two hundred and fifty rupees.	379	The owner of the property stolen.
Theft by clerk or servant of property in possession of master, where the value of the property stolen does not exceed two hundred and fifty rupees.	381	Ditto.
Dishonest misappropriation of property ...	403	The owner of the property misappropriated.
Criminal breach of trust, where the value of the property does not exceed two hundred and fifty rupees.	406	The owner of the property in respect of which the breach of trust has been committed.
Criminal breach of trust by a carrier, wharfinger, etc., where the value of the property does not exceed two hundred and fifty rupees.	407	The owner of the property in respect of which the breach of trust has been committed.

[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90.
[2] Substituted, *ibid.*, for the original sub-section (2).
[3] Substituted for the original by Act 26 of 1955, s. 63.

Offence.	Sections of the Indian Penal Code applicable.	Persons by whom offence may be compounded.
Criminal breach of trust by a clerk or servant, where the value of property does not exceed two hundred and fifty rupees.	408	The owner of the property in respect of which the breach of trust has been committed.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Ditto.
Cheating by personation	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making alteration or destruction of a valuable security.	420	Ditto.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto.
Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	Ditto.
Mischief by killing or maiming animal of the value of ten rupees or upwards.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc. of any value or any other animal of the value of fifty rupees or upward.	429	The owner of the cattle or animal.
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house-trespassed upon.
Using a false trade or property mark ...	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark.	486	The person whose trade or property mark is counterfeited.
Marrying again during the life-time of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon.]

(*3*) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(*4*) When the person who would otherwise be competent to compound an offence under this section is [1][under the age of eighteen years or is] an idiot or a lunatic, any person competent to contract on his behalf may [2][with the permission of the Court] compound such offence.

[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90, for "a minor".

[2] Inserted, *ibid.*

(*5*) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

[1][(*5A*) A High Court acting in the exercise of its powers of revision under section 439 may allow any person to compound any offence which he is competent to compound under this section.]

(*6*) The composition of an offence under this section shall have the effect of an acquittal of the accused [1][with whom the offence has been compounded.]

(*7*) No offence shall be compounded except as provided by this section.

Procedure of State Magistrate in cases which he cannot dispose of.

346. (*1*) If, in the course of an inquiry or a trial before a Magistrate in any district outside the presidency-towns the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction, as the District Magistrate directs.

Procedure of State Magistrate in cases which he cannot dispose of.

346. (*1*) If, in the course of an inquiry or a trial before a Magistrate in any district [2][*outside Greater Bombay*], the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to any Magistrate to whom he is subordinate or to such other Magistrate, having jurisdiction as the District Magistrate [3][*or Sessions Judge, as the case may be,*] directs.

(*2*) The Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.

347. (*1*) If in any inquiry before a Magistrate, or in any trial before a Magistrate, before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session or High Court, and if he is empowered to commit for trial, he shall [4]* * * commit the accused under the provisions hereinbefore contained.

(*2*) If such Magistrate is not empowered to commit for trial, he shall proceed under section 346.

Trial of persons previously convicted of offences against coinage, stamp—law or property.

XLV of 1860.

348. [5][(*1*)] Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall [6][if the Magistrate before whom the case is pending is satisfied that there are sufficient grounds for committing the accused] be committed to the Court of Session or High Court, as the case may be, unless the Magistrate [7][is competent

[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 90.
[2] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "outside the Presidency Town".
[3] Inserted, *ibid.*
[4] The words "stop further proceedings and" rep. by Act 18 of 1923, s. 91.
[5] S. 348 was renumbered as sub-section (*1*) of that section by s. 92, *ibid.*
[6] Inserted by s. 92, *ibid.*
[7] Substituted by s. 92, *ibid.*, for "before whom the proceedings are pending."

to try the case and] is of opinin that he can himself pass an adequate sentence if the accused is convicted :

Provided that, if [1][any Magistrate in the district] has been invested with powers under section 30, the case may be transferred to him instead of being committed to the Court of Session.

[2][(*2*) When any person is committed to the Court of Session or High Court under sub-section (*1*), any other person accused jointly with him in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 209.]

Procedure when Magistrate cannot pass sentence sufficiently severe.

349. (*1*) Whenever a Magistrate of the second or third class having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe, than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings, and forward the accused to the District Magistrate or Sub-Divisional Magistrate to whom he is subordinate.

(*1A*) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (*1*) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate or Sub-divisional Magistrate.

Procedure when Magistrate cannot pass sentence sufficiently severe.

[3][**349.** (*1*) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 106, he may record the opinion and submit his proceedings and forward the accused [3][*to a Magistrate of the first class specially empowered in this behalf by the State Government in consultation with the High Court*].

[4][(*1A*) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (*1*) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to [5][*the Magistrate empowered under sub-section* (*1*).]

(*2*) The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given

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[1] Substituted by Act 18 of 1923, s. 92, for "the District Magistrate".

[2] Inserted by s. 92, *ibid.*

[3] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "to the District Magistrate or Sub-divisional Magistrate to whom he is subordinate".

[4] Inserted by Act 18 of 1923, s. 93.

[5] Substituted by Bom. 23 of 1951, s. 2 and Sch. Pt. I, for "the District Magistrate or Sub-divisional Magistrate".

evidence in the case and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case as he thinks fit, and as is according to law :

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 32 and 33.

Conviction or commitment on evidence partly recorded by one Magistrate, and partly by another.

350. (*1*) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein and is succeeded by another Magistrate who has and who exercises such jurisdantion, the Magistrate so succeeding may act on the evidence so recorded by his predecessor, or partly recorded by his predecessor and partly recorded by himself :

[1][Provided that if the succeeding Magistrate is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any such witness and after such further examination, cross-examination and re-examination, if any, as he may permit, the witness shall be discharged].

[1][Provided that if the succeeding Magistrate is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any such witness and after such further examination, cross-examination and re-examination, if any, as he may permit the witness shall be discharged].

(*2*) Nothing in this section applies to cases in which proceedings have been stayed under section 346 [2][or in which proceedings have been submitted to a superior Magistrate under section 349].

[2][(*3*) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter within the meaning of sub-section (*1*).]

Changes in constitution of Benches.

[3][**350A.** No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 15 and 16, and the Magistrates constituting the same have been present on the Bench throughout the proceedings.]

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[1] Substituted by Act 26 of 1955, s. 64, for the words "or he may re-summon the witnesses and recommence the inquiry or trial" and the original proviso.

[2] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 94.

[3] S. 350A inserted, *ibid.*, s. 95.

Detention of offenders attending Court.

351. (*1*) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inqury into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned.

(*2*) When the detention takes place in the course of an inquiry under Chapter XVIII or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard.

Courts to be open.

352. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

Evidence to be taken in presence of accused.

353. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in presence of his pleader.

Manner of recording evidence outside presidency towns.

354. In inquiries and trials, (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

Manner of recording evidence.[1] * *

354. In inquiries and trials (other than summary trials) under this Code by or before a Magistrate (other than a Presidency Magistrate) or Sessions Judge, the evidence of the witnesses shall be recorded in the following manner.

Record in summons-cases and in trials of certain offences by first and second class Magistrates.

355. (*1*) In summons-cases tried before a Magistrate other than a Presidency Magistrate, and in cases of the offences mentioned in sub-section (*1*) of section 260, clauses (*b*) to (*m*), both inclusive, when tried by a Magistrate of the first or second class and in all proceedings under section 514 (if not in the course of a trial), the Magistrate shall make a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds.

(*2*) Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

(*3*) If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

[1] The words "outside presidency towns" were deleted by Bom. 32 of 1948, s. 19.